

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

United States of America )

v. )

Mary Anne Leonard )  
and David Shaak )Case No. *17-1372-M*

---

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 9-3-2016 through 10-12-2017 in the county of Delaware in the  
Eastern District of Philadelphia, the defendant(s) violated:*Code Section*

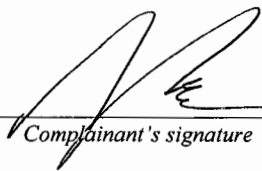
21 U.S.C. 846

*Offense Description*

From in or about September 3, 2016 through in or about October 12, 2017, defendants Mary Anne Leonard and David Shaak conspired and agreed, together and with each other to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and not for a legitimate medical purpose, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), all in violation of Title 21, United States Code, Section 846.

This criminal complaint is based on these facts:


See attached Affidavit

☐ Continued on the attached sheet.  
Complainant's signature

Andrew J. Pelczar, Special Agent FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 10-13-2017City and state: Philadelphia, Pennsylvania  
Judge's signature

The Honorable Marilyn Heffley, U.S. Magistrate Judge

Printed name and title

17-1372-M

1                                   **AFFIDAVIT IN SUPPORT OF**  
2                                   **COMPLAINT AND WARRANTS**

3  
4           1.       I, ANDREW PELCZAR III, being first duly sworn, hereby depose and state as  
5 follows:

6  
7                                   **INTRODUCTION AND AGENT BACKGROUND**

8  
9           2.       I am currently employed as a Special Agent of the Federal Bureau of  
10 Investigation's ("FBI") Philadelphia Field Division, Newtown Square Resident Agency, which is  
11 composed of Special Agents and local law enforcement officers investigating a wide array of  
12 criminal violations for the geographic area of Pennsylvania's Delaware and Chester counties. I  
13 have been employed as an FBI Special Agent since December 2001. In that time, I have  
14 participated in numerous investigations of violations of federal criminal law, including cyber  
15 crime, public corruption, money laundering, fraud, violent crime, counterterrorism and  
16 counterintelligence matters. I have received specialized training from the FBI Academy located  
17 in Quantico, Virginia pertaining to these matters, in addition to other training courses. I have  
18 also received special training in the enforcement of laws concerning cyber crime and  
19 investigations involving online activity, social media, and the internet. As part of my official  
20 duties, I have conducted physical and electronic surveillance, debriefed confidential informants,  
21 coordinated consensual monitoring with cooperating witnesses, reviewed financial documents  
22 and participated in the execution of numerous search and arrest warrants.

23  
24           3.       Prior to becoming an FBI Special Agent, I was employed as an Intelligence  
25 Officer with the Defense Intelligence Agency in Washington, DC. While there, I was assigned  
26 to the Joint Chiefs of Staff, where I analyzed counterterrorism and foreign military capabilities  
27 issues, authored papers detailing this research, and provided intelligence briefings to senior  
28 military and civilian officials. Before that, I served as a Non-Commissioned Officer in the U.S.  
29 Army's Military Intelligence Corps.

30  
31           4.       I am an "investigative or law enforcement officer" within the meaning of 18  
32 U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to conduct  
33 investigations and to make arrests for offenses enumerated in 18 U.S.C. § 2516.

34  
35                                   **PURPOSE OF THE AFFIDAVIT**

36  
37           5.       This affidavit relates to the arrests of MARY ANNE LEONARD and DAVID  
38 SHAAK, who from on or about September 3, 2016 through October 12, 2017, conspired and  
39 agreed, together and with each other to knowingly and intentionally distribute and dispense,  
40 outside the usual course of professional practice and not for a legitimate medical purpose, a  
41 mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled  
42 substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), all in  
43 violation of Title 21, United States Code, Section 846, all arising from LEONARD's unlawful  
44 prescribing of oxycodone, which prescriptions she gave to her cousin-in-law SHAAK, who in  
45 turn gave the prescriptions to persons who were not patients of LEONARD and/or any doctor

1 associated with LEONARD, and those persons filled those prescriptions and returned to SHAAK  
2 and LEONARD some of the illegally prescribed pills.

3  
4 6. The facts in this affidavit come from my personal observations, my training and  
5 experience, and information obtained from other law enforcement officials and witnesses. This  
6 affidavit is intended to demonstrate merely that there is sufficient probable cause for the  
7 requested warrants and does not set forth all of my knowledge about this matter.

#### 8 9 **PROBABLE CAUSE**

10  
11 7. Defendant MARY ANNE LEONARD was a Certified Registered Nurse  
12 Practitioner ("CRNP") licensed by the Commonwealth of Pennsylvania who held a Drug  
13 Enforcement Administration ("DEA") registration number. A CRNP is a professional nurse  
14 licensed in the Commonwealth of Pennsylvania who is certified by the Board in a specialty and  
15 who, while functioning in the expanded role as a professional nurse, performs acts of medical  
16 diagnosis or prescription of medical therapeutic or corrective measures in collaboration with a  
17 physician licensed to practice in the Commonwealth of Pennsylvania, and in accordance with the  
18 laws and regulations of that Commonwealth. LEONARD is currently employed fulltime as the  
19 Director of Home Care at Dunwoody Village, a senior citizen residential complex and does not  
20 maintain a separate independent medical office at which she sees any patients in collaboration  
21 with a physician.

22  
23 8. Defendant DAVID SHAAK is married to MARY ANNE LEONARD's cousin.  
24 SHAAK does not hold any license related to the prescribing of controlled substances.

25  
26 9. Pursuant to 49 Pa Code § 21.283, a CRNP with prescriptive authority approval  
27 may, when acting in collaboration with a physician as set forth in a prescriptive authority  
28 collaborative agreement and within the CRNP's specialty, prescribe and dispense drugs and give  
29 written or oral orders for drugs and other medical therapeutic or corrective measures. These  
30 orders may include orders for drugs, in accordance with §§ 21.284 and 21.285 (relating to  
31 prescribing and dispensing parameters; and prescriptive authority collaborative agreements).

32  
33 10. Under federal law, the Controlled Substances Act governs the manufacture,  
34 distribution, and dispensing of controlled substances in the United States. Under the Controlled  
35 Substances Act, there are five schedules of controlled substances B Schedules I, II, III, IV, and  
36 V. Controlled substances are scheduled into these levels based upon their potential for abuse,  
37 among other things. For example, abuse of Schedule II controlled substances may lead to severe  
38 psychological or physical dependence.

39  
40 11. Oxycodone is a narcotic analgesic that is similar to morphine and is classified as a  
41 Schedule II controlled substance, sometimes prescribed under the brand name Oxycontin.  
42 Oxycodone is an opoid and is used to treat severe pain, and, even if taken only in prescribed  
43 amounts, can cause physical and psychological dependence. Oxycodone is used in pain relief  
44 drugs in varying strengths, including 5, 10, and 15, milligram amounts. Even if taken only in  
45 prescribed amounts, pills containing amounts as low as 5 milligrams of oxycodone can cause  
46 physical and psychological dependence

1  
2 12. Title 21, United States Code, Section 841(a) (1), provides that “[e]xcept as  
3 authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally  
4 manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or  
5 dispense, a controlled substance.”  
6

7 13. Title 21, United States Code, Section 802(10), provides that the term “dispense”  
8 means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to  
9 the lawful order of, a practitioner, including the prescribing and administering of a controlled  
10 substance and the packaging, labeling or compounding necessary to prepare the substance for  
11 delivery.  
12

13 14. Title 21, United States Code, Section 821, provides that “[t]he Attorney General  
14 [of the United States] is authorized to promulgate rules and regulations relating to the registration  
15 and control of the manufacture, distribution and dispensing of controlled substances.”  
16

17 15. The Attorney General of the United States has exercised his rulemaking authority  
18 regarding the dispensing of controlled substances through the promulgation of 21 Code of  
19 Federal Regulations ' 1306.04, governing the issuance of prescriptions, which provides, among  
20 other things, that a prescription for a controlled substance to be effective must be issued for a  
21 legitimate medical purpose by an individual practitioner acting in the usual course of his  
22 professional practice. Moreover, an order purporting to be a prescription issued not in the usual  
23 course of professional treatment is not a prescription within the meaning and intent of section  
24 309 of the Act [21 U.S.C. § 829] and the person issuing it as well as the person knowingly filling  
25 such a purported prescription, shall be subject to the penalties provided for violations of the law  
26 relating to controlled substances.  
27

28 16. The Pennsylvania Code, Title 49, § 21.284(b) provides that a CRNP shall carry  
29 out the following minimum standards when prescribing, administering or dispensing controlled  
30 substances:  
31

32 (1) Initial evaluation. In a health care facility regulated by the Department of Health, the  
33 Department of Public Welfare or the Federal government, an initial medical history shall  
34 be taken and an initial physical examination shall be conducted to the extent required by  
35 the Department of Health in 28 Pa. Code (relating to health and safety) or Department of  
36 Public Welfare in 55 Pa. Code (relating to public welfare) or the Federal government in  
37 appropriate Federal regulations, whichever is applicable, and bylaws of the health care  
38 facility and its medical staff. In other practice settings, before commencing treatment that  
39 involves prescribing, administering or dispensing a controlled substance, an initial  
40 medical history shall be taken and an initial physical examination shall be conducted  
41 unless emergency circumstances justify otherwise. Alternatively, medical history and  
42 physical examination information recorded by another health care provider may be  
43 considered if the medical history was taken and the physical examination was conducted  
44 within the immediately preceding 30 days. The physical examination must include an  
45 evaluation of the heart, lungs, vital signs, pain level, and body functions that relate to the  
46 patient’s specific complaint.

(2) Reevaluations. Among the factors to be considered in determining the number and frequency of follow-up evaluations that should be recommended to the patient are the condition diagnosed, the controlled substance involved, expected results and possible side effects. For chronic conditions, periodic follow-up evaluations shall be recommended to monitor the effectiveness of the controlled substance in achieving the intended results.

(3) Patient counseling. Appropriate counseling shall be given to the patient regarding the condition diagnosed and the controlled substance prescribed, administered or dispensed. Unless the patient is in an inpatient care setting, the patient shall be specifically counseled about dosage levels, instructions for use, frequency and duration of use and possible side effects.

(4) Medical records. In a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government, information pertaining to the prescription, administration or dispensation of a controlled substance shall be entered in the medical records of the patient and the health care facility under 28 Pa. Code or 55 Pa. Code or appropriate Federal regulations, whichever is applicable, and bylaws of the health care facility and its medical staff. In other practice settings, certain information shall be recorded in the patient's medical record on each occasion when a controlled substance is prescribed, administered or dispensed. This information must include the name of the controlled substance, its strength, the quantity and the date it was prescribed, administered or dispensed. On the initial occasion when a controlled substance is prescribed, administered or dispensed to a patient, the medical record must also include a specification of the symptoms observed and reported, the diagnosis of the condition for which the controlled substance is being given and the directions given to the patient for the use of the controlled substance. If the same controlled substance continues to be prescribed, administered or dispensed, the medical record must reflect changes in the symptoms observed and reported, in the diagnosis of the condition for which the controlled substance is being given and in the directions given to the patient.

17. Accordingly, as a CRNP, defendant MARY ANNE LEONARD was authorized to dispense Schedule II controlled substances only to patients she examined for legitimate medical purposes and in the usual course of professional practice.

18. At the end of September 2017, your affiant received a request from officers of the Ridley Township Police Department ("RTPD") to initiate an investigation pertaining to LEONARD. The RTPD had been communicating with a Confidential Human Source (hereinafter referred to as CHS-1) who had reported he was presently being issued prescriptions for Oxycodone pills by LEONARD. CHS-1 advised this affiant that he never had been physically examined by LEONARD, was not being treated in any fashion, and had only ever been with her on two occasions. One of these occasions included a meeting in a car with LEONARD and DAVID SHAAK. Prior to this meeting in the car, SHAAK had given CHS-1 a prescription for Oxycodone written by LEONARD. While in the car, CHS-1 turned over a portion of the Oxycodone pills he had just received from a pharmacy to SHAAK. SHAAK took these pills, and handed a portion of them to LEONARD. CHS-1 then saw LEONARD ingest some of the same pills that had been prescribed to CHS-1. CHS-1's other meeting with LEONARD occurred at a residence.

1 19. CHS-1 described a scheme whereby he was first approached by SHAAK and  
2 offered the opportunity to receive prescriptions from LEONARD in return for kicking back to  
3 SHAAK and LEONARD a portion of the pills. CHS-1 estimated he had received prescriptions  
4 for Oxycodone 15 mg. pills from LEONARD every two weeks for approximately one year.  
5 CHS-1 explained that approximately every two weeks he would meet with SHAAK to receive a  
6 handwritten prescription signed by LEONARD. SHAAK and CHS-1 then would go together to  
7 a nearby pharmacy and CHS-1 would have this prescription filled. CHS-1 would leave the  
8 pharmacy, meet SHAAK, and turn over a portion of the Oxycodone pills to him. CHS-1  
9 understood SHAAK to keep some of these pills for himself and give some to LEONARD,  
10 outside of CHS-1's presence. CHS-1 estimated he kicked back approximately 40% of his filled  
11 prescription amount to SHAAK. On at least one occasion, SHAAK offered to purchase CHS-1's  
12 share of the pills. CHS-1 understood LEONARD and SHAAK to be related, with LEONARD  
13 and SHAAK's wife being sisters or cousins.  
14

15 20. On October 11, 2017, in a recorded a phone call between CHS-1 and SHAAK to  
16 coordinate the logistics of picking up his latest prescription from LEONARD, filling that  
17 prescription, and then turning over some of the pills to SHAAK, the two discussed that CHS-1  
18 had previously heard LEONARD was out of town and asked SHAAK if she were back. SHAAK  
19 stated she had returned, adding, "She's home or she wouldn't have wrote it for me."  
20

21 21. On October 11, 2017, this affiant and other law enforcement officials conducted  
22 surveillance when CHS-1 met SHAAK in a parking lot across from the Woodlyn Pharmacy,  
23 1301 Jefferson Avenue, Woodlyn, PA and SHAAK gave CHS-1 a prescription signed by  
24 LEONARD. CHS-1 then entered the pharmacy, but returned to SHAAK, advising he could not  
25 fill the prescription because he did not have any identification. The two made arrangements to  
26 meet again the following day to get the prescription filled.  
27

28 22. On October 12, 2017, a Ridley Township Police Officer contacted LEONARD at  
29 the phone number provided on her prescriptions. The Officer reported to LEONARD that they  
30 had stopped CHS-1 with pills and needed to know if he was in fact a patient of LEONARD's.  
31 LEONARD then claimed that CHS-1 was a patient and said that "he's legit." In recorded  
32 conversations that day, CHS-1 and SHAAK discussed this call and discussed how CHS-1 could  
33 have been arrested. SHAAK said that he spoke to LEONARD and that "she said she had to  
34 vouch for you to keep the pills." SHAAK reported that "she was like yeah I do, so that's good  
35 so there's nothing to sorry about there." SHAAK said that "she thought you were going to dodge  
36 on us with the pills and she was like I'm never gonna write" [for CHS-1] and that SHAAK and  
37 her were concerned that CHS-1 would not split the pills. CHS-1 asked if he could actually see  
38 LEONARD to have her be his "primary doctor," so that it would appear more legitimate, "so  
39 there would be stuff on paper." SHAAK also offered to purchase the rest of CHS-1's pills.  
40

41 23. In the evening of October 12, 2017, SHAAK met CHS-1 in a parking lot of a  
42 restaurant in Ridley Township to receive his share of the pills obtained through the prescription  
43 signed by LEONARD that SHAAK gave to CHS-1 the day before. Agents conducted  
44 surveillance and observed CHS-1 enter the pharmacy and then meet SHAAK in the parking lot  
45 where CHS-1 gave SHAAK the bottle containing 90 Oxycodone 15 mg. pills.  
46

1           24.     SHAAC was arrested in possession of those pills. After being advised of his  
2 Miranda rights, SHAAC spoke with agents. In that statement to police, in addition to other  
3 claims, some of which the agents knew to be true and some of which they knew to be false,  
4 SHAAC admitted that in coordination with LEONARD, the two had been obtaining oxycodone  
5 pills in this manner from CHS-1 as well as two others. SHAAC advised that LEONARD signed  
6 all the prescriptions, and that of the pills kicked back by each of the three people involved in this  
7 scheme, he kept some and some went to LEONARD. For the instant transaction, SHAAC  
8 claimed he was supposed to give three pills to LEONARD  
9

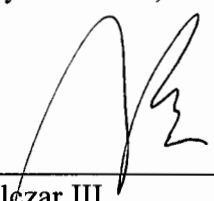
10           25.     In a recorded conversation between SHAAC and LEONARD later that night in  
11 the presence of agents, and where the two communicated about how to get LEONARD her share  
12 of the pills obtained from CHS-1, SHAAC recommended to LEONARD that she should take  
13 "fifteen" and she agreed. She later texted that SHAAC should "give them" to his wife and that  
14 LEONARD would get her pills from SHAAC's wife the next day. In that same series of texts,  
15 LEONARD asked SHAAC "was everything ok when he got pulled over?"  
16

17           26.     A Ridley Township Police Officer contacted LEONARD and asked her to come  
18 to the police station. LEONARD agreed to come and appeared at the Police Station. After being  
19 advised of her Miranda rights, LEONARD said that the scheme had been suggested by SHAAC.  
20 She claimed that she had examined CHS-1. She admitted that "on five to ten occasions" over the  
21 last year she had written prescriptions for CHS-1 and one other person (who was one of the other  
22 two mentioned in SHAAC's statement), with the intention and understanding that these two  
23 would fill the prescriptions, provide a portion of the Oxycodone pills to SHAAC, and she would  
24 then get a portion of those pills from SHAAC and SHAAC would retain a portion of the pills.  
25 She claimed that she used these pills. When this affiant used the term "kick back" to describe  
26 getting the pills back that she had prescribed to these two persons, she said she preferred to use a  
27 different term and preferred that the agent used the term "returned to her" to describe these  
28 transactions.

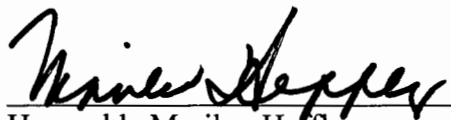
**CONCLUSION**

27. Based on all of the facts set forth in this affidavit and based on my training and experience, I have probable cause to believe that from on or about September 3, 2016 through October 12, 2017, MARY ANNE LEONARD and DAVID SHAAK conspired and agreed, together and with each other to knowingly and intentionally distribute and dispense, outside the usual course of professional practice and not for a legitimate medical purpose, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), all in violation of Title 21, United States Code, Section 846.

Respectfully submitted,

  
\_\_\_\_\_  
Andrew Pelczar III  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on October 13, 2017

  
\_\_\_\_\_  
Honorable Marilyn Heffley  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF PENNSYLVANIA